

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Baron Montero Jones,

Petitioner,

v.

Civil No. 11-3322 (JNE/AJB)
ORDER

State of Minnesota,

Respondent.

On November 10, 2011, Petitioner filed a document titled “Writ of Audita Querela Pursuant to Fed. R. Civ. P. 60(b).” The matter was referred to the Honorable Arthur J. Boylan, United States Chief Magistrate Judge, who issued a Report and Recommendation on November 16, 2011. The Report and Recommendation recommended the action be summarily dismissed and that Petitioner’s request to proceed in forma pauperis be denied. Petitioner objects to the Report and Recommendation.

The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). The Court agrees with and adopts the Report and Recommendation. Additionally, this Court agrees with the Magistrate Judge that Petitioner is abusing the federal court system by bringing unsustainable actions. Petitioner has filed six separate civil actions each with their own set of submissions and motions in this District—four of them within the past year. Two of these actions have been unsuccessfully appealed to the United States Court of Appeals for the Eighth Circuit, and a third is still pending before the Eighth Circuit. The five most recent lawsuits have all been based on the same underlying complaint by Petitioner that a conversation, recorded without his knowledge, was erroneously played for the jury over his motion to suppress. In his objection to the most recent Report and Recommendation, Petitioner acknowledges his persistence. He

claims that “due to the fact that none of the reviewing courts ever acknowledges this federal right [18 U.S.C. §§ 2510 et. seq.] to the Petitioner, he is somewhat forever stuck in limbo.” The Court will not accept Petitioner’s pro se restatement of his grievances forever. Petitioner has “no constitutional right of access to the courts to prosecute an action that is frivolous or malicious.” *In re Tyler*, 839 F.2d 1290, 1292 (8th Cir. 1988) (quoting *Phillips v. Carey*, 638 F.2d 207, 208 (10th Cir.1981)). “Frivolous, bad faith claims consume a significant amount of judicial resources, diverting the time and energy of the judiciary away from processing good faith claims.” *Id.* (quoting *People of the State of Colorado v. Carter*, 678 F.Supp. 1484, 1486 (D. Colo. 1986)). Therefore, Petitioner shall not file any additional actions in this District unless he is represented by counsel or obtains pre-authorization from a judge or magistrate judge. The Clerk of Court shall not file, or respond to, any future submissions from Petitioner, except as directed by the Court.

Based on its review of the record, the Court adopts the Report and Recommendation [Docket No. 3]. Therefore, IT IS ORDERED THAT:

1. Petitioner’s application for leave to proceed in forma pauperis [Docket No. 2] is **DENIED**.
2. Petitioner’s action for a Writ of Audita Querela [Docket No. 1] is summarily **DISMISSED**.
3. The Clerk of Court shall not file, or respond to, anything received from Baron Montero Jones, except as directed by the Court.

Dated: December 29, 2011

s/ Joan N. Ericksen
 JOAN N. ERICKSEN
 United States District Judge